

IN THE MATTER OF THE ESTATE OF THE DECEASED JOSEF A JIMENEZ. GREGORIA JIMENEZ, ADMINISTRATRIX AND APPELLANT, VS. GERONIMO JIMENEZ, CREDITOR AND APPELLEE.

G.R. No. 45165. April 12, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

In proceeding¹ No. 2641 of the Court of First Instance of Cavite instituted by Geronimo Jimenez for the summary distribution of the estate left by the deceased Josefa Jimenez, consisting of a parcel of land, known as lot No. 1090 of the Hacienda de San Francisco de Malabon, and a house of mixed materials, the total assessed value of both being P490, and for the payment of the sum of P359 owed by the deceased to the petitioner as expenses of her last sickness and funeral, an order was issued appointing said petitioner administrator of said estate. Later, Geronimo Jimenez was substituted in said office by the herein appellant Gregoria Jimenez, who, after filing an inventory of the estate left by Josefa Jimenez and the accounts of her administration, submitted on January 25, 1934, a project of partition.

In a pleading dated October 1, 1934, Geronimo Jimenez opposed the approval of said project of partition, alleging that the administratrix refused to pay his claim notwithstanding the conformity of the other heirs and the fact that it was preferred, because it referred to expenses of the last sickness and the funeral of the deceased.

After hearing the project of partition and the opposition thereto, the lower court, by order of October 27, 1934, approved the claim filed by Geronimo Jimenez and directed the administratrix Gregoria Jimenez to pay the same.

As the administratrix did not comply with the order, Geronimo Jimenez filed on March 1, 1935, a petition asking the court to order the provincial sheriff of Cavite to sell at public auction the estate left by the deceased Josefa Jimenez and to pay the petitioner's claim of P359 from the proceeds of the sale.

Acceding to said petition, the lower court, on March 4, 1935, ordered the provincial sheriff of Cavite to sell at public auction within the period of twenty-five days the estate left by the deceased Josefa Jimenez and to pay Geronimo Jimenez the amount of P359 from the proceeds of the sale.

Pursuant to said order, the provincial sheriff of Cavite sold at public auction on March 25, 1935, said lot No. 1090 of the Hacienda de San Francisco de Malabon, together with the house of mixed materials found thereon, to Geronimo Jimenez as the highest bidder for the amount of P432. On the same date, March 25, 1935, the Court of First Instance of Cavite approved the sale. On June 26, 1935, upon petition of the purchaser, said court ordered the aforementioned provincial sheriff of Cavite to place Geronimo Jimenez in possession of the land sold to him.

On February 11, 1936, Gregoria Jimenez filed a motion asking that the provincial sheriff of Cavite be ordered to issue a deed of redemption in her name, as one of the heirs of Josefa Jimenez, that the Certificate of Title No. 13339 issued in the name of Geronimo Jimenez and the Transfer Certificate of Title No. 13750 issued in the name of Gabino Copon be declared null and void, and that the Register of Deeds of Cavite be ordered to issue a transfer

certificate of title in the name of Gregoria Jimenez, married to Arsenio Hernandez, of the municipality of Rosario, Cavite.

After the motion of Gregoria Jimenez and the opposition thereto filed by Geronimo Jimenez were heard and considered, the Court of First Instance of Cavite denied the first in the order of March 2, 1936.

From this order of denial Gregoria Jimenez has appealed, assigning as errors allegedly committed by the lower court in its aforesaid order the following:

"1. The court a quo erred in not finding the action taken by the herein creditor-appellee to be in reality an ordinary civil action and in not declaring the order of said court to sell the properties under administration to be in law a writ of execution of a judgment for a sum of money.

"2. The court a quo erred in not declaring the herein appellant to be entitled to redeem the land and house in question, despite the fact that the said appellant sought to redeem said properties before the expiration of the period for redemption and for that purpose deposited with the provincial sheriff of Cavite the sum of P475.67 representing the redemption price of said properties."

The principal question of law to be decided in the present appeal is whether Gregoria Jimenez, as one of the heirs of the deceased Josefa Jimenez, has the right to redeem the latter's property which was sold at public auction to pay her debt.

Neither section 597 of the Code of Civil Procedure, as amended by Act No. 3370, nor sections 714 and 722 of the same Code authorizes the redemption of properties left by deceased persons and sold at public auction for the payment of their debts. In the first place, the proceedings in which such sales take place are special and governed by legal provisions likewise special, and not by general legal provisions governing ordinary actions and providing for the redemption of real properties sold at public auction by virtue of writs of execution.

Moreover, section 598 of the same Code of Civil Procedure implies that the summary distribution of the estate of a deceased person ordered by the competent court is final and definitive, unless within two years after the summary distribution it appears that there are outstanding debts or that an heir or other person has been unduly deprived of his lawful participation in the estate, in which case any creditor, heir or interested person may compel the judicial distribution and partition of said estate in the ordinary manner. If the redemption claimed by the administratrix-appellant is allowed, the purpose of the law in providing for the summary distribution of small estates left by a deceased person would be defeated, for the reason that it would not be possible to terminate the testate or intestate proceeding in which the estate has been distributed summarily, except after the expiration of the year for redemption.

The claim of the administratrix-appellant Gregoria Jimenez for the redemption of the property sold at public auction by the provincial sheriff of Cavite and acquired by the creditor Geronimo Jimenez as the highest bidder, is therefore unfounded. Besides, the aforesaid property, which is registered under the Torrens system, has been sold to a third person who has acquired it in good faith and to whom the corresponding transfer certificate of title, final and irrevocable in character, has been issued.

In view of the foregoing considerations, we are of the opinion and so hold that the properties of a deceased person sold at public auction for the payment of his debts and the summary distribution thereof are not subject to redemption, because the provisions of the Code of Civil Procedure regarding sales at public auction for the execution of a judgment rendered in an ordinary civil action are not applicable thereto.

Wherefore, finding no error in the appealed order, we affirm the same in toto, with costs against the appellant. So ordered.

Avancena, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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